

UNITED STATES COURT OF APPEALS, FIFTH CIRCUIT

CHECKLIST FOR PREPARATION OF BRIEFS AND RECORD EXCERPTS

NOTE: Check all copies before mailing.

- 1) CONTENTS OF BRIEFS (5TH CIR. R. 28.3 reproduced below gives the required contents of a brief.
 - a) Certificate of interested persons required by 5TH CIR. R. 28.2.1;
 - b) Statement regarding oral argument required by 5TH CIR. R. 28.2.4 (see also FED. R. APP. P. 34(a)(1));
 - c) A table of contents, with page references (see FED. R. APP. P. 28 (a)(2));
 - d) A table of authorities (see FED. R. APP. P. 28(a)(3));
 - e) A jurisdictional statement as required by FED. R. APP. P. 28(a)(4)(A) through (D);
 - f) A statement of issues presented for review (see FED. R. APP. P. 28(a)(5));
 - g) A statement of the case (see FED. R. APP. P. 28(a)(6));
 - h) A statement of facts relevant to the issues submitted for review (see FED. R. APP. P. 28(a)(7));
 - i) A summary of the argument (see FED. R. APP. P. 28(a)(8));
 - j) The argument, including the applicable standards of review (see FED. R. APP. P. 28(a)(9));
 - k) A short conclusion stating the precise relief sought (see FED. R. APP. P. 28(a)(10));
 - l) A signature of counsel or a party as required by 5TH CIR. R. 28.6;
 - m) A certificate of service in the form required by FED. R. APP. P. 25;
 - n) A certificate of compliance if required by FED. R. APP. P. 32(a)(7) and 5TH CIR. R. 32.3.

- 2) FORM (See FED. R. APP. P. and 5TH CIR. R. 32)

- a) Paper Size. 8½ x 11 inch paper is required for briefs.

	Page Limit Option	Type-Volume with monospaced (non-proportional) type, Text Line Option	Type-Volume with proportional or monospaced type, Word Count Option
Print Size	14 point or larger for text; 12 point or larger for footnotes in proportional typeface; no more than 10% cpi for text, no more than 12% cpi for footnotes in monospaced type.	At least 10% cpi for text; 12% cpi for footnotes	At least 14 point for text; at least 12 point for footnotes in proportional typeface; 10% (12% cpi for monospaced typeface)
Principal Briefs	30 Pages	1,300 lines of text	14,000 words
Reply Briefs	15 Pages	650 lines of text	7,000 words

- b) Text. Must be double spaced; quotations over 2 lines and footnotes may be single spaced.
 - c) Margins. Must be 1 inch on all sides.
 - d) Typeface style. Either proportionally spaced or monospaced typeface may be used. A plain roman style is required although italics or boldface may be used for emphasis. Case names must be italicized or underlined. San serif typeface is not permitted in proportional typeface, except for headings and captions.
 - e) Legibility. A clear black image on light paper with clarity equalling or exceeding that of a laser printer. (FED. R. APP. P. 32(a)(1)(A) and (B))
 - f) Reproduction. Only one side of the paper may be used. (FED. R. APP. P. 32(a)(1)(A))
 - g) LENGTH OF BRIEFS (See FED. R. APP. P. 32(a)(7)(B)(iii) for calculations of word and text line limits. In general, any certificate of interested parties; tables of contents and citations; statement with respect to oral argument; any addendum containing statutes, rules, or regulations; and, any certificates of counsel do not count toward the word or text line limitations.)

- 3) COVER AND BINDING OF BRIEF (FED. R. APP. P. 32(a)(2) and (3))

- a) Durable cover on both front and back. The front cover must contain: (1) the number of the case centered at the top; (2) the name of the court; (3) the title of the case (FED. R. APP. P. 12(a)); (4) the nature of the proceeding (e.g., Appeal, Petition for Review) and the name of the court, agency, or board below; (5) the title of the brief identifying the party or parties for whom the brief is filed; and (6) the name, office address and telephone number of counsel representing the party for whom the brief is filed.
 - b) Briefs must be bound in a secure manner, not obscuring the text, and permitting the brief to lie reasonably flat when open, i.e. spiral binding. Cost of this type binding may be recovered. (5TH CIR. R. 39)
 - c) Color:

Brief of Appellant - Blue	Brief of Cross Appellee - Red
Brief of Appellee - Red	Reply Brief of Cross Appellant - Gray
Reply Brief of Appellant - Gray	Intervenor or Amicus Curiae - Green
Brief of Appellee - Cross Appellant - Red	Supplemental Brief - White

- 4) NUMBER OF COPIES 7 paper copies - all cases, and electronic copies as required by 5TH CIR. R. 31.1, See 6) below.

- 5) TIME REQUIREMENTS (FED. R. APP. P. and 5TH CIR. R. 31)

- a) Appellant's Brief is due within 40 days of the briefing notice.
 - b) Appellee's Brief is due within 33 days from the date of the certificate of service of the Appellant's Brief.
 - c) Appellant's Reply Brief is due within 17 days of the certificate of service of the Appellee's Brief.
 - d) The due date is the date on which the brief is expected to be mailed to this court and served on the opposing party. If the due date falls on a weekend or federal holiday, it is extended to the following day.

- 6) FILING AND SERVICE (Fed. R. App. P. 25 and 31) Briefs are deemed filed on the day of mailing or delivery to a third party commercial carrier for delivery within 3 calendar days. 5TH CIR. R. 39.2 restricts the recovery of certain mailing and commercial delivery costs. Requirement for filing and serving electronic copies of briefs - See 5TH CIR. R. 31.1 on back of this page.

- 7) RECORD EXCERPTS (5TH CIR. R. 30.1)

- 8) PRINTING COSTS (5TH CIR. R. 39.1 limits the recoverable reproduction costs to a maximum of \$.25 per page.)

FORM OF BRIEFS, APPENDICES, AND OTHER PAPERS

Extracts from FED. R. APP. P. 32

(a) *Form of a Brief.*

(1) *Reproduction.*

(A) A brief may be reproduced by any process that yields a clear black image on light paper. The paper must be opaque and unglazed. Only one side of the paper may be used. (B) Text must be reproduced with a clarity that equals or exceeds the output of a laser printer. (C) Photographs, illustrations, and tables may be reproduced by any method that results in a good copy of the original; a glossy finish is acceptable if the original is glossy.

(2) *Cover.* Except for filings by unrepresented parties, the cover of the appellant's brief must be blue; the appellee's, red; an intervenor's or amicus curiae's, green; and any reply brief, gray. The front cover of a brief must contain:

(A) the number of the case centered at the top; (B) the name of the court; (C) the title of the case (see Rule 12(a)); (D) the nature of the proceeding (e.g., Appeal, Petition for Review) and the name of the court, agency, or board below; (E) the title of the brief, identifying the party or parties for whom the brief is filed; and (F) the name, office address, and telephone number of counsel representing the party for whom the brief is filed.

(3) *Binding.* The brief must be bound in any manner that is secure, does not obscure the text, and permits the brief to lie reasonably flat when open.

(4) *Paper Size, Line Spacing, and Margins.* The brief must be on 8½ by 11 inch paper. The text must be double-spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there.

(5) *Typeface.* Either a proportionally spaced or a monospaced face may be used.

(A) A proportionally spaced face must include serifs, but sans-serif type may be used in headings and captions. A proportionally spaced face must be 14-point or larger. (B) A monospaced face may not contain more than 10½ characters per inch.

(6) *Type Styles.* A brief must be set in a plain, roman style, although italics or boldface may be used for emphasis. Case names must be italicized or underlined.

(7) *Length.*

(A) *Page limitation.* A principal brief may not exceed 30 pages, or a reply brief 15 pages, unless it complies with Rule 32(a)(7)(B) and (C).

(B) *Type-volume limitation.*

(i) A principal brief is acceptable if:

- it contains no more than 14,000 words; or
- it uses a monospaced face and contains no more than 1,300 lines of text.

(ii) A reply brief is acceptable if it contains no more than half of the type volume specified in Rule 32(a)(7)(B)(i).

(iii) Headings, footnotes, and quotations count toward the word and line limitations. The corporate disclosure statement, table of contents, table of citations, statement with respect to oral argument, any addendum containing statutes, rules or regulations, and any certificates of counsel do not count toward the limitation.

(C) *Certificate of compliance.* A brief submitted under Rule 32(a)(7)(B) must include a certificate by the attorney, or an unrepresented party, that the brief complies with the type-volume limitation. The person preparing the certificate may rely on the word or line count of the word-processing system used to prepare the brief. The certificate must state either:

- (i) the number of words in the brief; or
- (ii) the number of lines of monospaced type in the brief.

(c) *Form of Other Papers.*

(1) *Motion.* The form of a motion is governed by Rule 27(d), and is limited to 20 pages.

(2) *Other Papers.* Any other paper, including a petition for rehearing and a petition for rehearing en banc, and any response to such a petition, must be reproduced in the manner prescribed by Rule 32(a), with the following exceptions:

- (A) a cover is not necessary if the caption and signature page of the paper together contain the information required by Rule 32(a)(2); and
- (B) Rule 32(a)(7) does not apply.

Extracts from 5TH CIR. R. 31 and 32

5TH CIR R. 31.1: . . . where a party is represented by counsel and generates his or her brief by computer, one computer readable disk copy of the brief must be filed with the clerk, and a second computer readable disk copy served on each party separately represented by counsel. The disk must contain nothing more than the brief. The disk's label must include the case name, docket number, identify the brief, i.e. appellant's brief . . . , and specify the word processing software and version used to prepare the brief. The brief must be on a 3½ inch disk. If available, the court greatly prefers the use of WordPerfect for Windows, 5.1 or greater The Certificate of Service must indicate service in both paper and electronic form.

5TH CIR. R. 32:

- (a) allows the typeface in footnotes to be smaller than the text;
- (b) requires a signature by an attorney or unrepresented party;
- (c) requires the name and version of the word processing software in the certificate of compliance.